



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-889]

Diocetyl Terephthalate from the Republic of Korea: Initiation of Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective Date: July 20, 2016.

FOR FURTHER INFORMATION CONTACT: Shanah Lee or Eve Wang, at (202) 482-6386 or (202) 482-6231, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On June 30, 2016, the Department of Commerce (“the Department”) received an antidumping duty (“AD”) petition concerning imports of dioctyl terephthalate (“DOTP”) from the Republic of Korea (“Korea”), filed in proper form on behalf of Eastman Chemical Company (“Petitioner”).¹ Petitioner is a domestic producer of DOTP.²

On July 5, 2016, the Department requested additional information and clarification of certain areas of the Petition.³ Petitioner filed its response on July 7, 2016.⁴

¹ See the “Petition for the Imposition of Antidumping Duties on Imports of Dioctyl Terephthalate from the Republic of Korea,” dated June 30, 2016 (“Petition”).

² See Petition, at 3.

³ See Letter from the Department to Petitioner entitled “Petition for the Imposition of Antidumping Duties on Imports of Dioctyl Terephthalate from the Republic of Korea: Supplemental Questions” dated July 5, 2016.

⁴ See Letter from Petitioner entitled “Petitioner’s Response to the Department’s January [sic] 5, 2016 Supplemental Questions Regarding the Petition,” dated July 7, 2016 (“Petition Supplement”).

In accordance with section 732(b) of the Tariff Act of 1930, as amended (“the Act”), Petitioner alleges that imports of DOTP from Korea are being, or are likely to be, sold in the United States at less-than-fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioner supporting its allegations.

The Department finds that Petitioner filed this Petition on behalf of the domestic industry because Petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that Petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigation that Petitioner is requesting.⁵

Period of Investigation

Because the Petition was filed on June 30, 2016, the period of investigation (“POI”) is, pursuant to 19 CFR 351.204(b)(1), April 1, 2015, through March 31, 2016.

Scope of the Investigation

The merchandise covered by this investigation is DOTP from Korea. For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” in Appendix I of this notice.

Comments on Scope of the Investigation

During our review of the Petition, the Department issued questions to, and received responses from, Petitioner pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief.⁶

⁵ *See* the “Determination of Industry Support for the Petition” section below.

⁶ *See* Petition Supplement, at 1-2.

As discussed in the preamble to the Department's regulations,⁷ we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Daylight Time ("EDT") on Tuesday, August 9, 2016, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. EDT on Friday, August 19, 2016, which is ten calendar days after the initial comments deadline.

The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact the Department and request permission to submit the additional information.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS").⁸ An electronically filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission

⁷ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

⁸ *See* 19 CFR 351.303 (for general filing requirements); *see also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of DOTP to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics and 2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe DOTP, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all comments must be filed by 5:00 P.M. EDT on August 9, 2016, which is

20 calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 P.M. EDT on August 19, 2016. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the record of this less-than-fair-value investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC

must apply the same statutory definition regarding the domestic like product,⁹ they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁰

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that DOTP, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.¹¹

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in Appendix I of this notice. To establish industry support, Petitioner provided its 2015 production of the domestic like product.¹²

⁹ See section 771(10) of the Act.

¹⁰ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

¹¹ For a discussion of the domestic like product analysis in this case, see “AD Investigation Initiation Checklist: Dioctyl Terephthalate from the Republic of Korea (“AD Initiation Checklist”), at Attachment II, Determination of Industry Support for the Petition. This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

¹² See Petition, at 3 and Exhibit INJ-4.

Petitioner states that it is the only known producer of DOTP in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.¹³

Our review of the data provided in the Petition and other information readily available to the Department indicates that Petitioner has established U.S. industry support.¹⁴ First, the Petition established support from U.S. domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).¹⁵ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.¹⁶ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.¹⁷ Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the AD investigation that it is requesting the Department initiate.¹⁸

¹³ *Id.*, at 3.

¹⁴ See AD Initiation Checklist, at Attachment II.

¹⁵ See section 732(c)(4)(D) of the Act; see also AD Initiation Checklist, at Attachment II.

¹⁶ See AD Initiation Checklist, at Attachment II.

¹⁷ *Id.*

¹⁸ *Id.*

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (“NV”). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.¹⁹ Petitioner contends that the industry’s injured condition is illustrated by the impact on the domestic industry’s market share, underselling and price suppression or depression, lost sales and revenues, decline in wages and employment, and decline in profitability.²⁰ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²¹

Allegation of Sales at Less-Than-Fair Value

The following is a description of the allegation of sales at less-than-fair value upon which the Department based its decision to initiate the investigation of imports of DOTP from Korea. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the AD initiation checklist.

¹⁹ See Petition, at 13-14; *see also* Petition Supplement, at 2 and Exhibit Supp-1.

²⁰ See Petition, at 2, 11-35 and Exhibits GEN-3 through GEN-6, GEN-10 and INJ-1 through INJ-7; *see also* Petition Supplement, at 2-3 and Exhibit Supp-1.

²¹ See AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping Duty Petition Covering Dioctyl Terephthalate from the Republic of Korea.

Export Price

Petitioner based export prices on a Korean producer's price offerings to its customers in the United States for DOTP produced in, and exported from, Korea during the POI.²² Because the quoted prices included delivery to the customer, Petitioner made a deduction from U.S. price for producer-to-customer freight.²³

Normal Value

Petitioner provided home market price information from an industry report for DOTP produced in and offered for sale in Korea. The home market price information in the industry report included inland freight to the customer in Korea; therefore, Petitioner deducted inland freight expenses to calculate ex-factory prices.²⁴

Fair Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of DOTP from Korea are being, or are likely to be, sold in the United States at less-than-fair value. Based on comparisons of export price to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for DOTP for Korea range from 23.70 to 47.86 percent.²⁵

Initiation of Less-than-Fair-Value Investigation

Based upon the examination of the AD Petition on DOTP from Korea, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating a less-than-fair-value investigation to determine whether imports of DOTP from Korea are being, or are likely to be, sold in the United States at less-than-fair-value. In accordance with section

²² See AD Initiation Checklist; *see also* Petition, at 38 - 39 and Exhibits AD-1, AD-5, and AD-6; *see also* Petition Supplement, at Exhibit Supp-3.

²³ See AD Initiation Checklist.

²⁴ *Id.*; *see also* Petition, at Exhibit GEN-10.

²⁵ See Petition Supplement, at Exhibit Supp-3. *See also* AD Initiation Checklist.

733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law.²⁶ The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.²⁷ The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this AD investigation.²⁸

Respondent Selection

Petitioner named three companies as producers/exporters of DOTP from Korea.²⁹ Following the standard practice in AD investigations involving market economy countries, in the event the Department determines that the number of companies is large and it cannot individually examine each company based upon the Department's resources, the Department intends to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States ("HTSUS") numbers listed in the "Scope of Investigation" in Appendix I. We intend to release the CBP data under Administrative Protective Order ("APO") to all parties with access to information protected by APO within five business days of publication of this **Federal Register** notice.

²⁶ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

²⁷ See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).

²⁸ *Id.* at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

²⁹ See Petition, at 3 - 4 and Exhibits GEN-7 and GEN-10.

Comments regarding the CBP data and respondent selection should be submitted seven calendar days after the placement of the CBP data on the record of this investigation. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for the initial comments.

Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. EDT, by the dates noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the government of Korea via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to the exporters named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of DOTP from Korea are materially injuring or threatening material injury to a U.S. industry.³⁰ A negative ITC determination will result in the investigation being terminated;³¹ otherwise, the investigation will proceed according to statutory and regulatory time limits.

³⁰ See section 733(a) of the Act.

³¹ *Id.*

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³² and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.³³ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. EDT on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from

³² See 19 CFR 351.301(b).

³³ See 19 CFR 351.301(b)(2).

multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or countervailing duty (“CVD”) proceeding must certify to the accuracy and completeness of that information.³⁴ Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.³⁵ The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

³⁴ See section 782(b) of the Act.

³⁵ See *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: July 20, 2016.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is dioctyl terephthalate (“DOTP”), regardless of form. DOTP that has been blended with other products is included within this scope when such blends include constituent parts that have not been chemically reacted with each other to produce a different product. For such blends, only the DOTP component of the mixture is covered by the scope of this investigation.

DOTP that is otherwise subject to this investigation is not excluded when commingled with DOTP from sources not subject to this investigation. Commingled refers to the mixing of subject and non-subject DOTP. Only the subject component of such commingled products is covered by the scope of the investigation.

DOTP has the general chemical formulation $C_6H_4(C_8H_{17}COO)_2$ and a chemical name of “bis (2-ethylhexyl) terephthalate” and has a Chemical Abstract Service (“CAS”) registry number of 6422-86-2. Regardless of the label, all DOTP is covered by this investigation.

Subject merchandise is currently classified under subheading 2917.39.2000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Subject merchandise may also enter under subheadings 2917.39.7000 or 3812.20.1000 of the HTSUS. While the CAS registry number and HTSUS classification are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

[FR Doc. 2016-17806 Filed: 7/27/2016 8:45 am; Publication Date: 7/28/2016]